

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MARC SPITZER, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 MIKE GLEASON
7 KRISTIN K. MAYES

OCT 28 2003

8 IN THE MATTER OF THE GENERIC
9 PROCEEDING CONCERNING ELECTRIC
10 RESTRUCTURING ISSUES.

DOCKET NO. E-00000A-02-0051

11 IN THE MATTER OF ARIZONA PUBLIC
12 SERVICE COMPANY'S REQUEST FOR A
13 VARIANCE OF CERTAIN REQUIREMENTS OF
14 A.A.C. R14-2-1606.

DOCKET NO. E-01345A-01-0822

15 IN THE MATTER OF THE GENERIC
16 PROCEEDING CONCERNING THE ARIZONA
17 INDEPENDENT SCHEDULING
18 ADMINISTRATOR.

DOCKET NO. E-00000A-01-0630

19 IN THE MATTER OF TUCSON ELECTRIC
20 POWER COMPANY'S APPLICATION FOR A
21 VARIANCE OF CERTAIN ELECTRIC
22 COMPETITION RULES COMPLIANCE DATES.

DOCKET NO. E-01933A-02-0069

PROCEDURAL ORDER

23 **BY THE COMMISSION:**

24 September 10, 2002, the Commission issued Decision No. 65154 in these consolidated
25 dockets. Decision No. 65154 ordered that Arizona Public Service Company ("APS") and Tucson
26 Electric Power Company ("TEP") submit modifications to their existing Codes of Conduct.

27 On November 12, 2002, TEP filed a letter with the Commission stating that neither TEP nor
28 its parent, UniSource Energy, has a competitive electric service provider, a separate generation
affiliate, or an affiliate involved in the marketing and trading of wholesale power. TEP stated that no
modifications to its Code of Conduct are necessary.

Also on November 12, 2002, APS filed modifications to its Code of Conduct.

On March 14, 2003, the Commission issued Decision No. 65743 in these consolidated

1 dockets. Decision No. 65743 directed the Commission's Utilities Division Staff ("Staff") to file
2 reports in these dockets on the Codes of Conduct previously filed by APS and TEP, within 60 days of
3 the Independent Monitor's final reports. Decision No. 65743 stated that the Staff Reports should
4 include, but not be limited to, an analysis of the Standards of Conduct developed for the Track B
5 solicitations, their applicability to the respective Codes of Conduct filed by APS and TEP, and
6 recommendations regarding their incorporation into the Codes of Conduct. Decision No. 65743
7 provided that hearings would be scheduled on the Codes of Conduct following the filing of those
8 Staff Reports.

9 Staff filed a Staff Report in these dockets on August 13, 2003.

10 A Procedural Order was issued scheduling a Procedural Conference for October 3, 2003, for
11 the purpose of discussing the procedural schedule for hearings on the APS and TEP Codes of
12 Conduct.

13 The Procedural Conference was convened as scheduled. APS, TEP, Panda Gila River, LLP
14 ("Panda"), the Arizona Utilities Investors Association ("AUIA"), the Residential Utility Consumer
15 Office ("RUCO") and Staff entered appearances.

16 TEP

17 In the Staff Report, Staff stated that TEP currently does not have an affiliate that sells
18 wholesale or competitive retail electricity. Staff further stated that because TEP's new affiliates
19 resulting from its purchase of Citizens Communications' electric and gas divisions are regulated by
20 the Commission, a Code of Conduct is not necessary between TEP and those affiliates, but that Staff
21 will monitor the situation and if warranted, will make a recommendation for a Code of Conduct in the
22 future. Staff therefore recommended that a hearing on the TEP Code of Conduct is not necessary at
23 this time, but that if sometime in the future, TEP were to have an affiliate that sells wholesale or
24 competitive retail electricity, then TEP should file, within 60 days of the formation or acquisition of
25 the affiliate, a revised Code of Conduct for Commission approval.

26 At the Procedural Conference, TEP agreed with Staff's recommendation regarding the TEP
27 Code of Conduct issue. APS, Panda, AUIA and RUCO took no position on the Staff
28 recommendation. Under the circumstances, it is reasonable to await either a Staff recommendation

1 regarding the need for revisions to TEP's Code of Conduct, or a filing by TEP of a revised Code of
2 Conduct due to formation or acquisition of a competitive electric affiliate, prior to setting a Code of
3 Conduct hearing for TEP.

4 APS

5 At the Procedural Conference, APS stated that the hearing on modifications to its Code of
6 Conduct should take place after the conclusion of their pending rate case. In support of its position,
7 APS stated that there have been a number of changes within APS since its November 12, 2002 filing
8 of proposed modifications to its Code of Conduct, and also asserted that the outcome of its pending
9 rate case would influence what provisions would need to be included in any Code of Conduct.

10 Panda and RUCO stated that they do not expect at this time to be participating in the hearing,
11 but will be monitoring the proceedings.

12 AUIA and Staff concurred with APS that it would be appropriate to wait until completion of
13 APS' pending rate case to address the Code of Conduct issues.

14 Under the present circumstances, it appears reasonable to schedule the hearings on APS'
15 Code of Conduct following the conclusion of APS' pending rate case proceeding. However, if any
16 issues related to the APS Code of Conduct cause Staff or another party to believe that a proceeding
17 should be scheduled prior to the conclusion of the rate case, that party should make a filing in these
18 dockets so stating.

19 IT IS THEREFORE ORDERED that Staff shall monitor the situation between Tucson Electric
20 Power Company and its regulated affiliates and shall make a recommendation to the Commission for
21 revisions to Tucson Electric Power Company's current Code of Conduct if, in Staff's judgment, Staff
22 believes revisions are warranted.

23 IT IS FURTHER ORDERED that if in the future, Tucson Electric Power Company either
24 forms or acquires an affiliate that sells wholesale or competitive retail electricity, Tucson Electric
25 Power Company shall file, within 60 days of the formation or acquisition, a revised Code of Conduct
26 for Commission approval.

IT IS FURTHER ORDERED that the hearing on the proposed modifications to Arizona Public Service Company's Code of Conduct shall be scheduled following the conclusion of its pending rate case.

IT IS FURTHER ORDERED that if, prior to the conclusion of the pending rate case, any party to these dockets believes that a proceeding should be scheduled before that time on issues related to the Arizona Public Service Company's Code of Conduct, that party shall make a filing in these dockets so requesting.

DATED this 28th day of October, 2003.


TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

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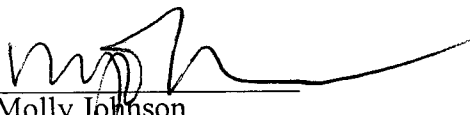
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